

SENATE BILL 1352

By Haynes

AN ACT to amend Tennessee Code Annotated, Title 13; Title 47 and Title 67, relative to safeguarding sovereignty in trade.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 13, Chapter 27, is amended by adding Sections 2 through 5 of this act as a new part.

SECTION 2. This part shall be known and may be cited as the "Jobs, Trade and Democracy Act."

SECTION 3. The legislature finds that:

(1) States have traditionally enjoyed a large degree of autonomy to set their own procurement policies under the United States system of federalism;

(2) Recent international trade agreements threaten to erode this traditional state autonomy by requiring state governments to accord foreign suppliers of goods and services treatment no less favorable than that afforded to in-state suppliers. In addition, the agreements stipulate that state contract specifications must not burden trade any more than necessary and limit supplier qualifications to those that are essential to the performance of the contract;

(3) The governor, not the state legislature, chose to bind this state to the terms of various international trade agreements upon the request of the United States trade representative, hereinafter referred to as the "USTR";

(4) State legislators have an important role to play in preserving state authority over procurement policy. These critical decisions should be made only with the involvement of the state legislatures, and only after the public has been adequately informed and has openly debated the issues involved;

(5) It is critical for citizens, state agencies, the state legislature, and other elected officials in the state to have access to information about how trade impacts state legislative authority, the state's economy and existing state laws in order to participate in an informed debate about international trade issues;

(6) The current encroachment on state regulatory authority by international commercial and trade agreements has occurred to no small part because United States trade policy is being formulated and implemented under the undemocratic federal fast track trade authority procedure also known as trade promotion authority. The current grant of fast track is scheduled to sunset in July 2007; and

(7) Fast track, first established in 1974 by then-President Richard Nixon when trade agreements were limited to traditional matters such as tariffs and quotas, is now woefully outdated and inappropriate given the diverse range of non-trade issues now included in trade agreements that broadly affect federal and state non-trade regulatory authority. Fast track should be replaced with a more democratic model for negotiating the terms of trade that enshrines the principles of federalism and state sovereignty.

SECTION 4.

(a) It shall be the policy of the state of Tennessee that approval for the state to be bound by any trade agreement requires the consent of the general assembly.

(b)

(1) Two (2) general assembly points of contact, hereinafter referred to as "legislative contacts", shall be appointed at the beginning of each legislative session in the following manner:

(A) One (1) to be appointed jointly by the majority and minority leaders in the senate; and

(B) One (1) to be appointed jointly by the majority and minority leaders of the house of representatives.

(2) The purposes of the legislative contacts are to:

(A) Serve as the state's official liaisons with the federal government and as the general assembly's liaisons with the governor on trade-related matters;

(B) Serve as the designated recipients of federal requests for consent or consultation regarding investment, procurement, services or other provisions of international trade agreements which impinge on state law or regulatory authority reserved to the states;

(C) Transmit information regarding federal consultation with states to the governor, the attorney general, and all appropriate legislative committees;

(D) Issue a formal request to office of trade enforcement and other appropriate state agencies to provide analysis of all proposed trade agreements' impact on state legislative authority and the economy of the state;

(E) Inform all members of the general assembly on a regular basis about ongoing trade negotiations and dispute settlement proceedings with implications for the state more generally;

(F) Communicate the interests and concerns of the general assembly to the USTR regarding ongoing and proposed trade negotiations; and

(G) Notify the USTR of the outcome of any legislative action.

(c) The following actions shall be required prior to this state's consent to the terms of any trade agreement:

(1) In a timely fashion, concurrent with trade negotiations, the governor, majority or minority leader, or ranking member of the commerce committee of the senate or house of representatives may submit to the general assembly, on a day on which both houses of the general assembly are in session, a copy of the final legal text of the trade agreement, together with:

(A) A report by the office of trade enforcement, which shall include an analysis of how the agreement of this state to the specific provisions of the agreement will change or affect existing state law;

(B) A statement of any administrative action proposed to implement these trade agreement provisions in this state; and

(C) A joint resolution authorizing this state to sign on to the specific listed provisions of the agreement in question.

(2) A public hearing occurs before the general assembly votes on the joint resolution; and

(3) The joint resolution authorizing this state to sign on to specific listed provisions of the agreement is enacted into law.

(d) The general assembly encourages the congress of the United States to pass legislation instructing the USTR to fully and formally consult individual state legislatures regarding procurement, services, investment, or any other trade agreement rules that impact state laws or authority before negotiations begin and as they develop, and to seek consent from state legislatures in addition to governors prior to binding states to conform their laws to the terms of international commercial agreements. Such federal

legislation is necessary to ensure the prior informed consent of this state with regard to future international trade and investment agreements.

(e) The state attorney general shall notify the USTR of this state's existing trade policies in writing no later than January 1, 2008, and shall provide copies of such notice to the governor, speaker of the senate, speaker of the house of representatives and to the state's federal congressional delegation.

SECTION 5.

(a) There is created the office of trade enforcement and a citizen's commission on globalization.

(b) The office of trade enforcement is directed to:

(1) Monitor trade negotiations and disputes impacting the state economy;

(2) Analyze pending trade agreements the state is considering signing and provide the analysis to the governor, the general assembly, the citizen's commission and the public;

(3) Provide technical assistance to workers and firms impacted by unfair trade practices;

(4) Provide a trade impact report to the governor, the general assembly, the citizen's commission and the public no later than February 5, 2008, and annually thereafter; and

(5) Provide additional research and analysis as requested by the governor, the general assembly, and the citizen's commission.

(c) Each annual trade impact report pursuant to subdivision (b)(4) shall include:

(1) An audit of the amount of public contract work being performed overseas;

(2) An audit of the government goods being procured from overseas;

(3) A study of trade's impacts on state and local employment levels, tax revenues, and retraining and adjustment costs;

(4) An analysis of the constraints trade rules place on state regulatory authority, including but not limited to the state's ability to preserve the environment, protect public health and safety, and provide high-quality public services; and

(5) Findings and recommendations of specific actions the state should take in response to the impacts of trade on this state. Such actions may include, but are not limited to:

(A) Revocation of the state's consent to be bound by the procurement rules of international trade agreements;

(B) Prohibition of offshore performance of state contract work and preferences for domestic content in state purchasing;

(C) State support for cases brought under federal trade laws by residents of this state;

(D) State advocacy for reform of trade agreements and trade laws at the federal level; and

(E) Implementation of a high-road growth strategy formulated with business, labor and community participation. Such a strategy may include, but not be limited to:

(i) More effective early warning and layoff aversion measures;

(ii) Increased assistance and adjustment programs for displaced workers and trade-impacted communities;

(iii) Stronger standards and accountability for recipients of state subsidies and incentives;

(iv) Investments in workforce training and development;

(v) Investments in technology and infrastructure; and

(vi) Increased access to capital for local producers.

(d) Within thirty (30) days of receipt of the annual trade impact report:

(1) The governor shall review the report and issue a public statement explaining which of the report's recommendations for specific action under subdivision (c)(5) the governor will act upon in the next thirty (30) days, whether through executive action or proposed legislation; and

(2) The general assembly shall review the report, hold public hearings on the report's recommendations for specific action under subdivision (c)(5), and introduce legislation to enact those recommendations accepted by the general assembly.

(e)

(1) The citizens' commission on globalization shall be composed of twelve (12) members. Six (6) members shall be appointed by the governor, three (3) members shall be appointed by the speaker of the senate and three (3) members shall be appointed by the speaker of the house of representatives. All members shall serve two-year terms. Any vacancy occurring on the commission shall be filled by the entity making the appointment for the remainder of the term. No member shall serve more than three (3) consecutive two-year terms. The governor, speaker of the senate and speaker of the house of representatives shall strive for equal representation on the commission from the following groups: employers, labor organizations, community organizations and government.

(2) The commission shall:

(A) Assess the legal and economic impacts of trade agreements;

(B) Provide input on the annual trade impact report;

(C) Hold public hearings on the impacts of trade on the state and communities, as well as the annual trade impact report impacts of trade on the state; and

(D) Make policy recommendations to the governor, general assembly, state congressional delegation and United States trade negotiators.

SECTION 6. This act shall take effect upon becoming a law, the public welfare requiring it.